

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 43-50, 53-68 are pending this application. By this paper, claims 61-68 are amended and claims 43-50, 53-60 are cancelled without prejudice or disclaimer. Each amendment has been made for grammatical reasons and no new matter will be added to this application by entry of these amendments. Entry is respectfully requested.

Rejections of Claims 63, 64, 67, 68

The Office Action has rejected claims 63 and 67 under 35 U.S.C. § 102(e) as allegedly being anticipated by Nakayama (U.S. Patent No. 4,750,032) and claims 64 and 68 under 35 U.S.C. § 103(a) as allegedly being obvious over Nakayama in view of Udagawa (U.S. Patent No. 6,982,753). We respectfully traverse these rejections.

In the rejections, the Office Action admits that there is no “switch” in Nakayama as claimed in claims 63 and 67. Rather, the Office Action states that “[s]ince a warning is produced if the white balance of the image being recorded changes from its initial level, it is inherent that some sort of user-activated switch is present that begins recording – otherwise, the device has no way of knowing that the initial level setting is complete and that a white balancing deviation from said level has occurred.”

Claims 63 and 67, however, both refer to “an image captured before the switch is operated....” We do not believe that Nakayama teaches this feature. Rather, Nakayama merely teaches that “the white balance must be adjusted and set prior to

recording the image.” (col. 5, lines 36-38). There is no teaching or suggestion that this process involves capturing an image before the switch is operated. In fact, as the Office Action acknowledges, Nakayama does not even teach a switch. Although the Office Action states that the switch is inherent, there is nothing in the Office Action, or in Nakayama, that would lead us to believe that “an image captured before the switch is operated” is inherent as well.

This difference can be further understood by comparing the Applicant’s invention as described in the specification to the invention described in Nakayama.

Applicant’s invention includes a first shutter switch 41 (“SW1”) that turns on when a shutter release button is in a half depressed state in a first, so as to give instructions for starting, *inter alia*, automatic exposure and automatic white balance processes (See, e.g., page 12, lines 26 – page 13, line 3). A second shutter switch (“SW2”) turns on when an operation of the shutter release button is completed in a second stroke, so as to give instructions for starting operations of a series of processes such as, *inter alia*, a writing process for writing image data from a charge coupled device (“CCD”) 15 into a main memory 19 (See, e.g., page 13, lines 4-10).

In the Automatic Exposure process, light measurement information is obtained from an electrical signal from a CCD 15 that is converted into a digital value by an analog to digital converter 16; an image plane is divided into predetermined areas by an image processing circuit 21; and an integral value of image data in each of the predetermined areas is found to obtain a light measurement evaluation value. (See, e.g.

page 25, line 23 – page 26, line 4). The light measurement evaluation values of the respective areas are weighted, and in consideration with the weight, a light measurement evaluation value for the whole image is obtained. (See, e.g., page 26, lines 4-8).

In the Automatic White Balance process, an electrical signal from the CCD 15 is converted into a digital value by the analog to digital converter, an image plane is divided into predetermined areas by the image processing circuit 21, and an integral output of the color-difference signals R-Y and B-Y for each of the respective areas is obtained as a color measurement evaluation value. (See, e.g., page 27 lines 3-10). In an area whose color measurement evaluation value is equal to or less than a predetermined value is selected, from the areas, as a white balance adjustment area, and the gains of the respective color signal are adjusted in such a manner that the color measurement evaluation value of this area becomes near to zero, so that a point at which the white balance becomes appropriate is detected. (See, e.g., page 27 lines 10-17). This process is performed until an appropriate white balance is obtained and the white balance value is stored in the system memory. (See, e.g. page 27, lines 18-20).

Referring now to Fig. 3 of the present application, in Step S20, a check is made to determine if the first shutter switch SW1 is depressed. If it is, the display is frozen in Step 22, and then a distance measuring process, a light measuring process, and a color measuring process are initiated in Step S23. Referring now to FIG. 5 for a description of these processes, a first exposure evaluation value is stored in Step S56, a first white balance evaluation value is stored in Step S59, and a first distance

measurement evaluation value is stored in Step S63. Eventually, Step S30 in FIG. 4 is executed and a photo-taking process is initiated to capture image data. After the photo-taking process completes and the image data is optionally displayed, a recording process is undertaken in Step S35.

In contrast, the white balance process described by Nakayama does not capture any images prior to the recording process. Rather, the process of initially setting the white balance value in Nakayama involves measuring light reflected from the subject. (col. 6, lines 20-23).

Accordingly, since Nakayama does not disclose all of the subject matter of claims 63 and 67, Applicants believe that these claims should be in allowable form. Additionally, because claim 64 depends from claim 63 and claim 68 depends from claim 67, these claims should also be in allowable form.

Rejections of Claims 61, 62, 65, 66

The Office Action has also rejected claims 61 and 65 under 35 U.S.C. § 103(a) as allegedly being obvious over Kimura (U.S. Patent No. 4,890,166) in view of Aihara (Japanese Patent Application Publication No. 62-023025) and Nakayama and claims 62 and 66 as allegedly being obvious over Kimura in view of Aihara and Nakayama and further in view of Shiokawa (Japanese Publication No. 60-220671) and Udagawa. We respectfully traverse these rejections.

The Office Action cites to Nakayama as allegedly disclosing “wherein the image capture apparatus is capable of determining whether to issue a warning to a user or

not using a first white balance value and a second white balance value.” We understand this to be an argument that Nakayama discloses the subject matter from claims 61 and 65 discussing “wherein the image capture apparatus is capable of determining, using ... (c) a first white balance value indicating a white balance of an image captured before the switch is operated, and (d) a second white balance value indicating a white balance of an image captured after the switch is operated, whether to issue a warning to a user or not.”

As discussed above, we do not believe that Nakayama discusses “an image captured before the switch is operated.” Therefore, because the Office Action has not demonstrated each of the elements in the prior art, the Office Action has not properly demonstrated a *prima facie* case of obviousness. Therefore, claims 61 and 65 should also be in allowable form. Additionally, because claim 62 depends from claim 61 and claim 66 depends from claim 65, these claims should also be in allowable form.

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. Likewise, Applicants have chosen not to swear behind Udagawa by providing foreign translations of the priority documents at this time. Applicant, however, reserves the right, as provided by 37 C.F.R. § 1.55, to do so in the future as appropriate.

These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth

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above. Accordingly, the dependent claims also are in condition for allowance.

Applicants, however, reserve the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-4605.

Respectfully submitted,
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